

**REMARKS**

As a preliminary matter, Applicant's representative would like to thank the Examiner for courtesies extended in the personal interview conducted on February 17, 2009.

An Examiner's Interview Summary Record (PTOL-413) was provided by the Examiner at the interview on February 17, 2009.

Applicant submits this Statement to comply with the requirements of M.P.E.P. 713.04.

Claims 1-15 are all the claimed pending in the present application. Claims 1-5 have been amended, and claims 6-15 have been added. No new matter has been added.

It is noted that the claims amendments are made only for pointing out the claimed invention more particularly, and not for distinguishing the invention over the prior art, narrowing the claims, or for statutory requirements for patentability. Further Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

**Claims 1-5** stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 1-5** stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolls (U.S. Patent Number 6,056,194) in view Partyka et al. (U.S. Patent No. 6,250,452) (hereinafter Partyka), Shwartzendruber (U.S. Patent No. 5,207,784), and Whitehead (GB 2367727). **Claim 2** stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolls, Partyka, Shwartzendruber, and Whitehead, and further in view of Sedam (U.S. Patent No. 4,412,292).

In the interview, the following was discussed:

**I. APPLICANT'S STATEMENT OF SUMMARY OF THE PERSONAL INTERVIEW**

**A. Identification of claims discussed:**

Claims 1-15.

**B. Identification of prior art discussed:**

Shwartzendruber;  
Partyka; and  
Kolls.

**C. Identification of principal proposed amendments:**

Amending the independent claims to reflect the dynamic nature of the claimed  
“predetermined number of remaining goods.”

**D. Brief Identification of principal arguments:**

The alleged combination of Koll, Partyka, Shwartzendruber, and Whitehead fails to teach or suggest every element as recited in independent claims 1 and 4. In fact, the Examiner has to interpret the collected references in such a manner so as to implicitly teach the claimed invention without actually performing or being configured in the same manner as the claimed invention.

Furthermore, none of the alleged references teach or suggest dynamically determining a stockout time.

**E. Results of the Interview:**

No agreement to the claims were reached. However, the Examiner admitted that Shwartzendruber did not teach or suggest the dynamic calculation of a predetermined number of remaining goods based on sales conditions.

**II. PRIOR ART REJECTIONS**

The Examiner then relies on Shwartzendruber to teach a vending machine that sends a request when the number obtained by subtracting is below a certain number. However, Shwartzendruber is directed to tracking articles within a vending machine to provide an inventory status signal to a remote location. Shwartzendruber does not teach or suggest a dynamically determined predetermined number, as recited in the claims.

Because the alleged references do not teach or suggest every element as claimed in amended independent claims 1 and 4, claims 1 and 4 are improperly rejected. Accordingly, Applicant submits that claims 1 and 4 are in condition for allowance.

With respect to claims 2, 3, and 5 which depend from independent claims 1 and 4, respectively, each of these claims contains all the limitations contained within independent claims 1 and 4 and are therefore also in condition for allowance.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

### **III. NEW CLAIMS**

Applicant has added new claims 6-15 to claim additional features of the invention and to provide varied protection for the claimed invention. These claims are independently patentable because of the novel features recited therein.

Applicant respectfully submits that new claims 6-15 present no new matter and are supported in the specification.

Applicant submits that new claims 6-15 are patentable over the cited references at least for analogous reasons to those set forth above with respect to claims 1-5.

### **IV. FORMAL MATTERS AND CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-15, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

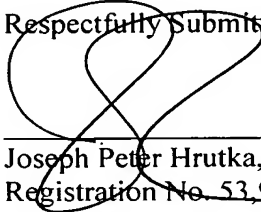
Serial Number: 10/569,956  
Docket Number: 05-92 SUS

12

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Date: 3/5/9  
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Respectfully Submitted,

  
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